

First Published in The Wichita Eagle on April 14, 2005

ORDINANCE NO. 46-564

AN ORDINANCE AMENDING SECTION 7.41.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO NOISE AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 7.41.010 of the City of Wichita, Kansas, is hereby amended to read as follows:

(a) It is unlawful for any person to make, continue, or allow to be made or continued, any excessive, unnecessary, unusual or loud noise which creates a nuisance or injures or endangers the comfort, repose, health or safety of others, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of some individual.

(b) The following acts, which enumeration shall not be deemed to be exclusive, are hereby declared to be noise nuisances in violation of this section and are unlawful:

(1) The playing or permitting or causing the playing of any radio, radio receiving set, television, phonograph, "boom box," loudspeaker,

drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound when done in such a manner or with such volume, intensity, or with continued duration so as to annoy, to distress, or to disturb the quiet, comfort, or repose of any person of reasonable sensibilities within the vicinity or hearing thereof. This sub section shall not apply to persons who have written authorization for an event which includes use of such a device, or to the police or public authorities who are using such a device in the performance of their duties.

(2) Steam Whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the opening or closing of the establishment or institution, or of the time to begin or stop work, or as a warning of danger.

(3) Exhaust of Steam Engines, Etc. The discharge into the open air of the exhaust of any stationary steam engine, internal combustion engine, noise creating blower or power fans, or devices operated by compressed air, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(4) Motor Vehicles. The use of any motor vehicle, motorcycle, bus or other vehicle so out of repair or in such a manner as to create loud or unnecessary grating, grinding, rattling, or other noise which shall annoy, distress, or disturb the quiet, comfort, or repose of any person of reasonable sensibilities within the vicinity.

(5) Peddlers, Hawkers, Etc. The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors before eight a.m. or after ten p.m.

(6) Construction. The erection, including construction, excavation, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools, or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

(i) Other than between the hours of seven a.m. and ten p.m.;

(ii) This subsection shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only by permit obtained from and issued by the director of public works, or any of the director's duly appointed assistants.

(7) Loading and Unloading. The creation of loud, excessive and unreasonable noise in connection with loading or unloading any vehicle, in the opening and destruction of bales, boxes, crates and containers or in the handling of ash, trash and garbage cans, either in the loading or unloading, or the creation by improper loading of excessive and unreasonable noise by the transportation of any materials over and along streets.

(c) It shall be a defense to charges filed pursuant to Section 7.41.010(a) that such noise levels did not exceed those set forth in Section

7.41.030. Such measurements shall be taken in accordance with the provisions of Section 7.41.020 pertaining to noise levels. It shall be the burden of the individual charged to present evidence of decibel readings obtained from properly calibrated testing equipment operated by an individual trained to operate such equipment. Such evidence shall be submitted to the City Attorney's Office no later than seven days prior to the trial date of any complaint. Failure to submit such evidence to the City Attorney's office will waive any such defense."

SECTION 2. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 5th day of April, , 2005.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law